

1 Sara B. Allman, Esq., CSB #107932  
2 Steven A. Nielsen, Esq., CSB #133864  
3 ■ ALLMAN & NIELSEN ■  
4 A Professional Corporation  
5 100 Larkspur Landing Circle, Suite 212  
6 Larkspur, CA 94939  
7 Telephone: (415) 461-2700  
8 Facsimile: (415) 461-2726

9 Attorneys for Defendant  
10 THOMAS J. TOMANEK

11 IN THE UNITED STATES DISTRICT COURT  
12  
13 NORTHERN DISTRICT OF CALIFORNIA  
14

15 EDITH MACIAS, individually and on behalf  
16 of similarly situated individuals; HOTON  
17 DURAN; TIFFANY HUYNH; AURA  
18 MENDIETA; WILLIAM LABOY; MIGUEL  
19 ACOSTA; CRUZ ACOSTA; CUAUHTEMOC  
20 TORAL; and TERESA VILLEGAS, KAPIKA  
21 SALAMBUE and MARINA DURAN

22 Plaintiffs,  
23 vs.

24 THOMAS J. TOMANEK; and MARK  
25 GARIBALDI, individually and doing business  
as THE GARIBALDI COMPANY,

Defendants.

Case No.: C07 3437 JSW (EDL)

**AMENDED REPLY DECLARATION OF  
SARA B. ALLMAN RE MOTION FOR  
ATTORNEY'S FEES AND COSTS**

DATE: March 4, 2008  
TIME: 9:00 A.M.  
COURTROOM: E, 15<sup>th</sup> Floor  
JUDGE: Hon. Elizabeth D. Laporte

Date Action Filed: June 29, 2007

1 I, Sara B. Allman, declare as follows:

2 1. I am an attorney at law, duly licensed to practice before all the courts of  
3 this state, and am president of Allman & Nielsen, A Professional Corporation, attorneys  
4 of record for defendant THOMAS J. TOMANEK (hereinafter "defendant") herein. The  
5 following facts are within my personal knowledge and, if sworn to testify, I would testify  
6 competently thereto.

7 2. The attorney's fees incurred, and not included on Exhibit D to the  
8 Declaration of Sara B. Allman in support of this motion, up to the present date by  
9 Allman & Nielsen, P.C. in prevailing on behalf of defendant THOMAS J. TOMANEK in  
10 the action total \$5,775.00. Costs incurred, and not included on Exhibit D to the  
11 Declaration of Sara B. Allman in support of this motion, up to the present date in  
12 prevailing in the action total \$23.80. These charges are reasonable and were necessarily  
13 incurred in the defense of moving defendant THOMAS J. TOMANEK relative to  
14 reviewing and analyzing plaintiffs' opposition, conducting legal research, and preparing  
15 the reply submissions in connection with this motion.

16 3. Attached as Exhibit "E" is a true and correct itemization of the time  
17 actually expended by Allman & Nielsen, P.C. and not included on Exhibit D to the  
18 Declaration of Sara B. Allman in support of this motion. I have redacted specific  
19 descriptions that are privileged. I have also redacted charges relative to a separate  
20 action plaintiffs have now filed against my client. I will make the un-redacted  
21 itemizations available for the court's in camera inspection pursuant to Civil L.R. 54-6.  
22 Exhibit "E" reflects the time spent and hourly compensation at our usual and customary  
23 hourly billing rate herein of \$165 for matters of this type. Our firm bills in increments  
24 of .10 of an hour, with a minimum .10 charge. The itemization sets forth the nature of  
25

1 the services rendered in the matter by me. The time records are maintained by the  
2 firm's PC Law computer system after manual entry on the date incurred.

3 4. The total amount of fees incurred by Allman & Nielsen P.C. and claimed  
4 to date in this action is \$25,839.00. The total amount of claimed costs is \$211.32. I  
5 anticipate that my client will incur three (3) additional hours to prepare for the hearing,  
6 two (2) additional hours for travel time, and one (1) additional hour for oral argument,  
7 all at my regular hourly rate of \$165.00.

8 I declare under penalty of perjury under the laws of the State of California that the  
9 foregoing is true and correct and that this declaration was executed on this 19th day of  
10 February, 2008, in Larkspur, California.

11   
12 SARA B. ALLMAN

PROOF OF SERVICE

I am a citizen of the United States and employed in Marin County, California. I am over the age of eighteen years and not a party to the within action. My business address is 100 Larkspur Landing Circle, Suite 212, Larkspur, California 94939-1743.

On this date I served the foregoing documents described as:

**AMENDED REPLY DECLARATION OF SARA B. ALLMAN RE MOTION FOR  
ATTORNEY'S FEES AND COSTS**

on the interested parties in the action by placing ☐ the original ☒ a true copy thereof, enclosed in a sealed envelope addressed as follows:

Christopher Brancart  
Elizabeth Brancart  
BRANCART & BRANCART  
PO Box 686  
Pescadero, CA 94060

Attorney for Plaintiffs EDITH MACIAS,  
individually and on behalf of similarly  
situated individuals; HOTON DURAN;  
TIFFANY HUYNH; AURA MENDIETA;  
WILLIAM LABOY; MIGUEL ACOSTA;  
CRUZ ACOSTA; CUAUHTEMOC TORAL;  
and TERESA VILLEGAS

John S. Blackman  
Farbstein & Blackman  
411 Borel Ave #425  
San Mateo, CA 94402-3518

Attorneys for Defendant  
MARK GARIBALDI, individually and  
doing business as THE GARIBALDI  
COMPANY

Carl D. Ciochon  
Wendel Rosen Black & Dean, LLP  
1111 Broadway, 24<sup>th</sup> Floor  
Oakland, CA 94607

Attorneys for Defendant  
MARK GARIBALDI, individually and  
doing business as THE GARIBALDI  
COMPANY

☒ BY MAIL: I deposited such envelope with postage thereon fully prepaid in the United States Postal Service mailbox at Larkspur, California.

☐ BY PERSONAL SERVICE: I delivered such envelope by hand to the addressee.

☐ BY FACSIMILE: I sent such document via facsimile to the facsimile machine of the addressee.

☐ BY EXPRESS MAIL: I deposited such envelope in a mailbox regularly maintained by the United States Postal Service for receipt of Express Mail postage paid to be delivered by Express Mail for overnight courier service to the addressee.



**Exhibit “E”**

***ALLMAN & NIELSEN, P.C.***  
100 Larkspur Landing Circle, Suite 212  
Larkspur, CA 94939

Ph:415 461 2700

Fax:415 461 2726

February 19, 2008

**Attention:**

File #: FA-576  
Inv #: Sample

**RE:** Macias v. Tomanek

<b>DATE</b>	<b>DESCRIPTION</b>	<b>HOURS</b>	<b>AMOUNT</b>	<b>LAWYER</b>
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Jan-19-08

Jan-21-08

Jan-22-08

Jan-23-08

Telephone call with fee motion.	re status of	0.10	16.50	SBA
Letter to fee submission.	re	0.10	16.50	SBA
Read/analyze Blackman points and authorities and declaration in support of Garibaldi fee motion.		0.20	33.00	SBA
Read/analyze Ciochon declaration re fee motion.		0.10	16.50	SBA

Jan-24-08

Legal Research re notice requirements moot re motion.		0.30	49.50	SBA
Read/analyze judge White's ruling re vacating 3/14 hearing and assignment to magistrate judge.		0.10	16.50	SBA



Jan-25-08

Jan-28-08	read file in preparation for defense conference.	0.20	33.00	SBA
	appeared at and participated in defense telephonic meeting.	0.80	132.00	SBA
	letter from Mr. Quint re pleadings and directives re fee motion.	0.10	16.50	SBA
	read file and letter to Mr. Quint re requested submissions.	0.10	16.50	SBA

Jan-29-08

Jan-30-08

Telephone call with hearing date set.	re status,	0.10	16.50	SBA
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Letter to (multiple) defense attorneys re fee motion opposition.	0.20	33.00	SBA
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Read/analyze (preliminary) opposition of plaintiffs to fee motion.	0.60	99.00	SBA
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Read/analyze ruling of Judge La Porte re fee application.	0.10	16.50	SBA
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Jan-31-08

Feb-01-08

Feb-04-08

Feb-06-08

of specific codes re plaintiff tenant obligations,  
Civil Code sections 1927 through 1941.2.

Feb-07-08	Read/analyze re preliminary arguments in reply to plaintiff opposition.	0.70	115.50	SBA
Feb-08-08	Telephone call from John Blackman re status and proposed action re reply.	0.10	16.50	SBA
Feb-11-08	Letter to Mr. Blackman re coordination of reply.	0.10	16.50	SBA
	prepared reply arguments per legal Research re cases cited by plaintiff in opposition to fee motion, including	5.80	957.00	SBA
Feb-12-08	letter from Mr. Quint re fee reply brief.	0.10	16.50	SBA
	letter from Mr. Blackman re his contribution to fee reply motion.	0.10	16.50	SBA
	Letter to defense counsel re status of reply brief.	0.10	16.50	SBA
	Draft/revise reply brief arguments and legal Research re plaintiff cited cases on contract v. tort distinction, including review of:	5.60	924.00	SBA
Feb-13-08	Telephone call to Mr. Blackman re allocation of responsibility re reply brief arguments.	0.10	16.50	SBA

	Draft/revise further reply arguments.	2.30	379.50	SBA
Feb-14-08	Telephone call from Mr. Blackman re reply status/strategy.	0.10	16.50	SBA
	Draft/revise reply arguments re 1717, 1021.	3.30	544.50	SBA
Feb-15-08				
	Draft/revise and legal Research re reply points, including cases cited by plaintiff's attorney in opposition brief and distinguish for reply arguments.	5.70	940.50	SBA
	Letter to all defense counsel re status of reply.	0.10	16.50	SBA
Feb-16-08	letter from Mr. Blackman re revisions to his section of reply brief and comments.	0.10	16.50	SBA
	Letter to Mr. Blackman re reply brief.	0.10	16.50	SBA
Feb-17-08	Legal Research Marin County law library re principal/agent and in response to plaintiff arguments re supplemental brief.	1.80	297.00	SBA
Feb-18-08	Draft/revise reply brief and final edits.	4.30	709.50	SBA
	Draft/revise reply declaration.	0.40	66.00	SBA
	Read/analyze vm message from Mr. Blackman re reply arguments.	0.10	16.50	SBA
	Letter to Mr. Blackman re final reply brief.	0.10	16.50	SBA
Feb-19-08	letter from defense counsel re okay re reply brief.	0.10	16.50	SBA
	prepared final edits and cite checks.	0.70	115.50	SBA
	Totals		<u>\$ 5,775.00</u>	

#### DISBURSEMENTS

Jan-22-08	Extraordinary Postage (in excess of \$2.00 per single item). 2 @ 4.60	9.20
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Jan-28-08	Photocopying @ \$.10 per page. 122 @ 0.10	12.20
Feb-19-08	Photocopying @ \$.10 per page. 24 @ 0.10	2.40
	Totals	<hr/> \$23.80

TAX ID Number 94-3268610

\$ 16.50		
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\$ 16.50		
\$ 115.50		
\$ 16.50		
\$ 16.50		
\$ 957.00		
\$ 16.50	previous \$ 20,064.00	previous \$ 187.52
\$ 16.50	<u>\$ 5,775.00</u>	<u>\$ 23.80</u>
\$ 16.50	<b>\$ 25,839.00</b>	<b>\$ 211.32</b>
\$ 924.00		
\$ 16.50		
\$ 379.50		
\$ 16.50		
\$ 544.50		
\$ 940.50		
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\$ 115.50		
<u>\$ 5,775.00</u>		